

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PATRICK DARGE,

Petitioner,

-against-

THE UNITED STATES

ALVIN K. HELLERSTEIN, U.S.D.J.:

**ORDER DENYING 28 U.S.C. §
2255 MOTION**

10 Cr. 863 (AKH)

24 Civ. 3963 (AKH)

Defendant Patrick Darge moves under 28 U.S.C. § 2255 to vacate his 18 U.S.C. § 924(j) conviction based on the retroactive application of *United States v. Taylor*, 596 U.S. 845 (2022). *Taylor* requires the vacatur of convictions under § 924(j) that are predicated on attempted Hobbs Act Robbery as a crime of violence.


The motion is denied on two grounds: first, it is untimely. Section 2255 motions must be brought within one year from “the date on which the right asserted was initially recognized by the Supreme Court.” 28 U.S.C. § 2255(f)(3). Defendant’s motion was filed on April 22, 2024, twenty months after *Taylor* was issued on June 21, 2022. Second, *Taylor* is inapplicable to Defendant’s case, as his conviction was not predicated on attempted Hobbs Act robbery. The use of a firearm to cause death in furtherance of drug trafficking, the predicate crime of violence, remains a valid § 924(j) predicate. *See Tavarez v. United States*, 81 F.4th 234, 241 (2d Cir. 2023).

Because “the motion and the fields and records of the case conclusively show that the prisoner is entitled to no relief,” no fact hearing is necessary. 28 U.S.C. § 2255(b). I decline to issue a Certificate of Appealability because Defendant has “not made a substantial showing of the denial of a constitutional right,” 28 U.S.C. § 2253(c)(2), and because Defendant has failed to

identify a claim that jurists of reason would find debatable as to whether Defendant was denied such a right. *See Slack v. McDaniel*, 529 U.S. 473,478 (2000). The Clerk shall terminate the open motion at ECF No. 1 in 24cv3963 and ECF No. 294 in 10cr863 and mark 24cv3963 closed.

SO ORDERED.

Dated: August 28, 2024
New York, New York



ALVIN K. HELLERSTEIN
United States District Judge